

RULE 146

BONDS IN CRIMINAL CASES

(a) Security for Bonds; Authorized Sureties

Except as otherwise provided by law, the Clerk of Court shall accept bonds which are secured by any of the following:

- (1) a natural person who meets the following requirements:
 - (A) is of legal age, and a permanent resident of the Commonwealth of Puerto Rico;
 - (B) has no outstanding forfeiture or unsatisfied judgment entered upon any bail bond in any Court of the United States, including the courts of any of its states, territories or possessions;
 - (C) is a legal registered owner of real estate within this district with a reasonable market value to cover the amount specified in the bond which he or she proposes to execute as specified in this rule; and,
 - (D) provides accurate and complete information concerning permanent address, telephone number, and net worth.
- (2) a juridical entity with capacity to sue and be sued pursuant to the laws of the United States or the Commonwealth of Puerto Rico.
- (3) a corporation authorized to act as surety by the Commonwealth of Puerto Rico and by the Secretary of the Treasury of the United States pursuant to Title 6, United States Code, Section 113. Such corporation shall have on file with the Clerk a certified copy of its certificate of authority to do business in the Commonwealth of Puerto Rico together with a certified copy of the power of attorney appointing the agent authorized to execute the bond.

(b) Unauthorized Sureties

A lawyer representing a defendant in a case may never post a bond on behalf of his or her client or any other defendant in that case. Administrative officers, deputies, assistants, or any other employees of this Court or the United States Marshals Service are also prohibited from securing a bond on behalf of a criminal defendant. Violation of this rule shall result in disciplinary proceedings.

(c) Property Which may be Accepted as Bond

- (1) Cash or certified check issued by a bank on deposits insured by the Federal Deposit Insurance Corporation. Certified checks shall be accepted if issued within five (5) days of the application to post bond and are payable to the Clerk of the Court.
- (2) Real property located in the United States.
 - (A) When the real property is owned by more than one person, all of them must qualify as individual sureties and must sign the jurisdiction and appearance bond.
 - (B) When the real property is owned by a corporation or juridical entity, a corporate or official resolution must be supplied. The resolution, duly certified by the authorized officer, must specifically allow the alienation of said real property.
 - (C) When real property is offered as bond, the following information must be provided: legal description and location; list of all encumbrances and liens; certified copy of the deed of sale; certification of outstanding mortgage by the relevant bank or financial institution; and, a certificate from the Secretary of the Treasury issued within fifteen (15) days of the date of bail presentation indicating that the real property has no outstanding tax liability to the Commonwealth of Puerto Rico.

(d) Payment of Property Taxes

While the bond is in effect, the surety will keep current the payment of the taxes on the property. The surety will not sell, mortgage, or in any manner further encumber the property until the same is exonerated by the Court.

(e) Powers of Attorney

Bail shall not be taken from a person acting under a power of attorney or other written instrument, save in cases of corporate surety where the power of attorney or written instrument shall be first filed and approved by the Clerk, who shall keep such instrument on file.

(f) Bonding Companies

The Court may, for good cause shown, enter an order restricting any bonding company or surety company from being accepted as surety for any bond in any case or matter before the Court.

(g) Value of Real Property

The value of any real property offered as security for bond will be determined by a professional appraisal report to be furnished by its owner(s). The Court-assessed value of the property will be 70 percent of the appraised value, offset by any mortgages, encumbrances or liens.

(h) Real Property Previously Pledged as Bail

Real property pledged as bail in the court of the United States, including the courts of any of its states, territories or possessions, or already accepted for bail in any case pending before this Court, shall not, while so pledged or accepted for bail, be accepted for bail in another case.

If the real property has been pledged as bail during the last five (5) years, the sworn statement shall contain complete information of the case(s) in which the property was so pledged including: the name of the defendant and number of

the case in which the property was pledged as bail; the date bail was accepted; the Court accepting the bail; the amount of bail for which the property was pledged; name of its owner(s) and value of the property at that time; and, the present status of the case(s) in which property was pledged.

(i) Justification of Personal Surety

Any individual offered as surety must file a duly acknowledged Justification of Personal Surety showing his or her permanent address and telephone number, his or her net worth, legal description and location of the real estate, its Court-assessed value and a complete list of all encumbrances and liens thereon.

The individual offered as surety must also file, in connection with the aforementioned justification: a certified copy of the deed of sale; an up-to-date certificate of the balance owed on the mortgages, issued by the bank or mortgage company; a certificate from the Secretary of the Treasury issued within the last fifteen (15) days, showing that taxes on the property have been paid; a certificate from the Registry of Property as to the real property posted in bond; and a sworn statement stating whether the property has been pledged as bail during the last five (5) years.

(j) Return of Bonds, Deposits and Property Deeds

When a defendant has obtained release by depositing a sum of money, obligations of the United States or property surety, the surety shall be entitled to the return of the bond posted when the defendant has been discharged. It is the surety's responsibility to request the return of any legal documents tendered to the Court. Any such documents that have remained in the Clerk's custody for more than six (6) months after the defendant's discharge may be disposed of by the Clerk after due notice.

(i) Jurisdiction

By posting bond in any proceeding in this Court, the surety submits to the jurisdiction of this Court.

(j) Deposit of Cash Security

All cash tendered to the Clerk of Court as security for bonds posted in criminal cases shall be deposited in one of the interest-bearing accounts at the Court's designated financial institution.